

**AMENDMENTS TO THE DRAWINGS**

Please substitute the new sheet of drawings, containing Figs. 6A – 6C, for the original sheet containing those figures, so that Fig. 6A may be labeled as “Prior Art” are required by the Examiner.

Attachment: The Substitute Sheet is appended to the end of this paper.

**REMARKS**

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-16 and 18-23 are now present in the application. Claims 1, 13, 16 and 21 are independent.

The Office Action dated June 25, 2008 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Reconsideration and allowance of the pending claims are respectfully requested in view of the following remarks.

**Priority Under 35 U.S.C. § 119**

Applicants thank the Examiner for acknowledging Applicants' claim for foreign priority under 35 U.S.C. § 119, and receipt of the copies of the certified priority documents.

**Objections to the Drawings**

Figure 6A of the drawings was objected to by the Examiner and was required to be labeled as "Prior Art." Responsive thereto, a new sheet of drawings containing Figures 6A-6C, and with Fig. 6A labeled in the manner required, has been prepared and submitted. Accordingly, Applicants request the requirement be reconsidered and withdrawn, and the drawings indicated as accepted by the Examiner.

**Objections to the Disclosure**

The Abstract of the Disclosure was objected to for being too long and for containing inappropriate phraseology. Responsive thereto, the Abstract has been corrected in accordance with the Examiner's instructions. Accordingly, reconsideration and withdrawal of the objection to the Abstract are respectfully requested.

**Claim Rejections – 35 U.S.C. § 112, Second Paragraph**

Claims 1-21 stand rejected under 35 U.S.C. § 112, the second paragraph, as being indefinite. Responsive thereto, all of the claims have been substantially rephrased so as to avoid all of the instances of language, and any similar language noted, included in the Office Action. It

is submitted that all of the claims now particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, reconsideration and withdrawal of the rejection to the claim language are respectfully requested.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 3-5, 6, 7, 10, 12, 13, 16, 17, 19 and 21 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over EP 767113 to Peltomaki. Applicants submit that the Examiner has failed to establish a *prima facie* case of anticipation and respectfully traverse the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. § 102, the cited reference must teach or inherently include each and every element of the claims. See *M.P.E.P. § 2131; M.P.E.P. § 706.02*.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicants respectfully submit that independent claims 1 and 16 have been amended to recite a combination of elements in warehouse running structure including, *inter alia*, a gripping device arranged on the collecting device for lifting one or more objects from one of the stacks, whereas the gripping device is vertically movable; whereas the gripping device is substantially formed by two mutually opposite blades, and whereas the blades are vertically movable with respect to the intermediate store. Applicants respectfully submit that this combination of elements and method steps as set forth in independent claims 1 and 16, respectively, is not disclosed or made obvious by the prior art of record, including Peltomaki.

The Examiner states that Peltomaki shows a gripping device being vertically movable and formed by "mutually opposed blades", as broadly claimed.

Applicants respectfully submit that to the contrary, the gripping device 20 in Peltomaki does not show a gripping device substantially formed by two mutually opposite blades, and whereas the blades are vertically movable with respect to the intermediate store, as now claimed. Applicants respectfully submit that the combination of elements as set forth in independent claims 1 and 16 is not disclosed or made obvious by the prior art of record, including Peltomaki, for the

reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

With respect to claims 13 and 21, the Examiner asserts that the conveyor 14 is considered to be a storage unit which can be moved independently. Applicants respectfully submit that to the contrary, Peltomaki does not show the combination of structure and function as now positively recited. Peltomaki does not show a collecting device being movable over the storage area, an intermediate store arranged on the collecting device to accommodate objects to be picked up from the storage area, for filling the intermediate store successively from various stacks in separate pickup steps, and a gripping device arranged on the collecting device for lifting one or more objects from one of the stacks, whereas the gripping device is vertically movable; whereas a storage unit, which can be moved independently of the collecting device, whereas objects accommodated in the intermediate store of the collecting device can be transferred directly into the storage unit. In Peltomaki the lifting device is not vertically movable with respect to an intermediate store and the intermediate store, which is the tower-like load-lifting device is always lowered as a whole if goods are to be picked up. Applicants respectfully submit that the combination of elements as set forth in independent claims 13 and 21 is not disclosed or made obvious by the prior art of record, including Peltomaki, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

With regard to dependent claims 3-5, 6, 7, 10, 12, 17 and 19, Applicants submit that claims 3-5, 6, 7, 10, 12, 17 and 19 depend, either directly or indirectly, from independent claims 1, 13, 16 and 21 which are allowable for the reasons set forth above, and therefore claims 3-5, 6, 7, 10, 12, 17 and 19 are allowable based on their dependence from claims 1, 13, 16 and 21. Reconsideration and allowance thereof are respectfully requested.

*Claim Rejections – 35 U.S.C. § 103*

Claims 8 and 11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Peltomaki, claims 2, 9, 18 and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Peltomaki in view of Blakely, claim 14 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Peltomaki in view of Beutler, and claim 15 stands rejected under 35 U.S.C. § 103(a) as unpatentable over

Peltomaki in view of Beutler and Eisele. Applicants submit the Examiner has failed to establish a *prima facie* case of obviousness and respectfully traverse these rejections. A complete discussion of the Examiner's rejections is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. *See M.P.E.P. § 706.02(j); M.P.E.P. 2141-2144.*

With respect to claims 8 and 11, comments made above with respect to claim 1 are incorporated herein, as they establish that Peltomaki fails to show or suggest a pair of vertically movable blades as are now recited in independent claim 1. Accordingly, reconsideration and withdrawal of these rejections are respectfully requested.

With respect to claims 2 etc., Blakely is cited for its showing of stacked objects in two mutually opposed halves B and C. However, Blakely fails to show or suggest a pair of vertically movable blades as are now recited in independent claims 1 and 16, and therefore Blakely cannot make up for the deficiencies of Peltomaki as discussed above.

With respect to claim 14, Beutler was cited for a showing of a storage unit 16b independently movable with respect to gripping unit 40. However, Beutler fails to show or suggest a collecting device being movable over the storage area, an intermediate store arranged on the collecting device to accommodate objects to be picked up from the storage area, for filling the intermediate store successively from various stacks in separate pickup steps, and a gripping device arranged on the collecting device for lifting one or more objects from one of the stacks, whereas the gripping device is vertically movable; whereas a storage unit, which can be moved independently of the collecting device, whereas objects accommodated in the intermediate store of the collecting device can be transferred directly into the storage unit, as is recited in claim 13, and therefore cannot make up for the deficiencies of Peltomaki as discussed above with respect to claim 13.

With respect to claim 15, Eisele was cited for collecting device 8 and storage unit 9 arranged on a separate portal bridge. However, Eisele fails to show or suggest a collecting device being movable over the storage area, an intermediate store arranged on the collecting device to accommodate objects to be picked up from the storage area, for filling the intermediate store

successively from various stacks in separate pickup steps, and a gripping device arranged on the collecting device for lifting one or more objects from one of the stacks, whereas the gripping device is vertically movable; whereas a storage unit, which can be moved independently of the collecting device, whereas objects accommodated in the intermediate store of the collecting device can be transferred directly into the storage unit, as is recited in claim 13, and therefore cannot make up for the deficiencies of Peltomaki as discussed above with respect to claim 13.

Accordingly, the Office Action fails to make out a *prima facie* case of obviousness of the subject matter recited in currently pending claims 8, 11, 2, 9, 18, 20, 14 and 15.

**Conclusion**

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

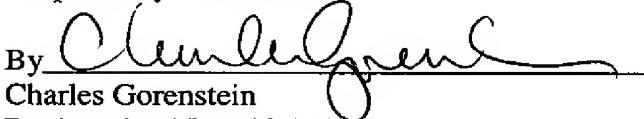
Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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Attachments